THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Misc. Writ Petition (M/S) No. 130 of 2006
(Under Article 226/227 of the Constitution of India)

State Bank of India, Mussoorie Branch,
Himalayan State Building, Mussoorie,
District Nainital, through its Chief Manager,
Shri Sanjay Singh. … **Petitioner.**

Versus

1. District Judge, Dehradun.
2. Life Insurance Corporation of India, having its Central Office at Yogekshema, Jeevan Bima Marg, Mumbai and one of its Divisional Office at Jeevan Prakash, Haridwar Road, Dehradun.

… **Respondents.**

Sri Anil Dabral & D.S.Patni, Advocates, learned counsel for the petitioner.
Sri Nand Prasad, Learned Standing Counsel for the respondent No. 1.
Sri S.S.Chaudhary, learned counsel for respondent no. 2.

Dated March 24, 2006.

PC:
(Hon'ble B.S. Verma, J.)

Heard learned counsel.

The petitioner has filed the present Writ Petition to issue a writ, order or direction in the nature of mandamus commanding the respondents not to execute the orders of Estate Officer, LIC dated 27.01.2006 till the disposal of stay application pending before the District Judge, Dehradun (respondent no.1) in P.P. Appeal No. 22 of 2006.

Relevant facts are that the petitioner filed an appeal on 7.2.2006 under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act 1971 against the order dated 27.1.2006 passed by the Estate Officer, L.I.C., which was registered as P.P.Appeal No. 22 of 2006, S.B.I. Vs. L.I.C. on 07.02.2006. Along

with the said appeal application for stay was also filed. After hearing both the parties, the said appeal was admitted and the respondent- L.I.C. sought time to file oobjection against the stay application. It is alleged that as per impugned order of the Estate Officer, the petitioner has to vacate the premises within a period of 15 days. Aggrieved by the impugned order dated 27.1.2006 and since stay application pending before the respondent no.1 has not been decided, the petitioner has come up before this Court in the writ petition.

The appeal was admitted and this Court passed an interim order on 18.2.2006 to the following effect:-

"Meanwhile, if the petitioner deposits 25% of the arrears of rent and damages claimed i.e. Rs. 11,92,645/- out of demanded Rs. 47,70,581/- within a period of fifteen days and further continues to deposit 50% of the enhanced rent, i.e. Rs. 1,04,000/- per month in future, the eviction order, which is Annexure-1 to this writ petition and is a subject matter of the appeal pending before the District Judge, shall not be executed till the disposal of said appeal or this petition, whichever is earlier. The, if any, found deposited in excess after the disposal of the appeal, the same shall be adjusted towards the future rent."

In the course of arguments, the learned counsel for the petitioner has made a request that this appeal be finally disposed of today with a direction to the respondent no.1 to decide the P.P.Appeal No. 22 of 2006 pending in his court within a stipulated period of three months and till the decision of the appeal, the interim order passed by this Court on 18.2.2006 as aforesaid be ordered to remain in force. The learned counsel for the respondent no.2 has conceded to this request.

Accordingly, I direct the District Judge Dehradun to decide the aforesaid P.P.Appeal no. 22 of 2006 State Bank of India Vs. L.I.C. in accordance with law, pending disposal in his court,

within a period of three months from today. Till the decision of the appeal, the interim order dated 18-2-2006 passed by this Court, as mentioned above, shall remain in force.

With the aforesaid observation, the Writ Petition is disposed of finally.

(B.S. Verma, J.)

RCP